



Law Department  
500 Water Street (J150)  
Jacksonville, FL 32202  
Phone (904) 359-1229  
FAX (904) 245-3357

E-Mail [steven\\_armbrust@CSX.com](mailto:steven_armbrust@CSX.com)

Steven C. Armbrust  
Counsel  
Florida Authorized House Counsel  
Admitted in New York, Not admitted in Florida

June 3, 2008

Hon. Anne K. Quinlan  
Acting Secretary  
Surface Transportation Board  
395 E Street, S.W.  
Washington, D.C. 20423

222512

**Re: STB Docket No. AB-565 (Sub-No. 14X)  
New York Central Lines, LLC – Abandonment  
Exemption – in Montgomery and Schenectady  
Counties, NY**

Dear Acting Secretary Quinlan:

CSX Transportation, Inc. ("CSXT")<sup>1</sup> supports and agrees to the extension request made in the letter, dated June 2, 2008, from Director James S. Sponable, on behalf of the New York State Office of Parks, Recreation and Historic Preservation (the "State"), requesting an extension of time to negotiate interim trail use/rail banking under 16 U.S.C. §1247(d) for the 6.3-mile railroad between South Amsterdam, milepost QGW 159.6, and Rotterdam Junction, milepost QGW 165.9, in Montgomery and Schenectady Counties, NY (the "Line"). The State also requested an extension of the consummation date.

Most recently, the Surface Transportation Board (the "Board") granted the State and CSXT an extension to continue to negotiate trail use under the provisions of 16 U.S.C. §1247(d) by decision served on November 16, 2007. The negotiating period was extended until April 5, 2008, and the consummation date was extended until June 5, 2008. Negotiations between the State and CSXT continued after the extension was granted. As the State said, "the parties expect to conclude negotiations for a trail use agreement soon, but will not be able to do so in advance of the consummation deadline."

Typically, the Board properly grants extension requests for continued negotiation for interim trail use/rail banking. Such action is entirely proper based on the language and intent of 16 U.S.C.

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<sup>1</sup> CSXT is the successor by merger to New York Central Lines, LLC.

§1247(d), which is to convert railroad lines authorized for abandonment into trails and to preserve the corridor for future reactivation as a rail line. As the Board is well aware, it took the railroad industry over 75 years in the 19<sup>th</sup> century to assemble the financing and rights-of-way to construct the national railroad system. The Federal, State and local governments also participated substantially in creating the national railroad system through massive land grants and substantial tax incentives. Federal law now encourages the creation of recreational and historic trails.

The Secretary of the Interior is directed to encourage States to develop trails 16 U.S.C. §1247(a) The Secretary of Housing and Urban Development is directed to encourage the development of trails 16 U.S.C. §1247(b) So is the Secretary of Agriculture 16 U.S.C. §1247(c). Of great relevance to the extension request filed by the State, "The Secretary of Transportation, the Chairman of the Surface Transportation Board, and the Secretary of the Interior, in administering the Railroad Revitalization and Regulatory Reform Act of 1976 [45 U.S.C. 801 et seq.], shall encourage State and local agencies and private interests to establish appropriate trails. 16 U.S.C. §1247(d)

The statutory directive to the Chairman, along with the two cabinet Secretaries continues by stating, "Consistent with the purposes of that Act, and in furtherance of the national policy to preserve established railroad rights-of-way for future reactivation of rail service, to protect rail transportation corridors, and to encourage energy efficient transportation use, in the case of interim use of any established railroad rights-of-way pursuant to donation, transfer, lease, sale, or otherwise in a manner consistent with this chapter, if such interim use is subject to restoration or reconstruction for railroad purposes, such interim use shall not be treated, for purposes of any law or rule of law, as an abandonment of the use of such rights-of-way for railroad purposes. If a State, political subdivision, or qualified private organization is prepared to assume full responsibility for management of such rights-of-way and for any legal liability arising out of such transfer or use, and for the payment of any and all taxes that may be levied or assessed against such rights-of-way, then the Board shall impose such terms and conditions as a requirement of any transfer or conveyance for interim use in a manner consistent with this chapter, and shall not permit abandonment or discontinuance inconsistent or disruptive of such use" *Id*

The provisions concerning the National Trails System do not contain a time limit on the period for negotiations. Instead of limiting potential interim trail use/rail banking with artificial time limits, section 1247(d) requires the Board to "impose such terms and conditions as a requirement of any transfer or conveyance for interim use in a manner consistent with this chapter, and shall not permit abandonment or discontinuance inconsistent or disruptive of such use" In the November 16, 2007 decision, the Board stated, "Given the time that has elapsed since abandonment was authorized, the parties are once again urged to conclude their negotiations so that further extensions are not necessary. This latest extension should provide ample time in which to conclude negotiations using the new appraisal. Under the circumstances, any requests for a further extension likely will be denied." Instead of following the statutory directive to "encourage" the establishment of trails, the Board essentially told the parties that if they did not enter a trail use agreement by the deadline, they would not be able to enter a trail agreement pursuant to the National Trails System legislation. Such a decision is specifically contrary to the legislative direction to the Chairman of the Board to encourage the establishment of trails.

CSXT strongly urges the Board to grant the extension sought by the State because an extension should not be limited to an arbitrary time period, especially when the extension would be wholly consistent with the mandate of section 1247(d)

Therefore, CSXT respectfully requests the Board grant the extension of the NITU negotiating deadline sought by the State to October 2, 2008<sup>2</sup> and the extension of the date to consummate the abandonment sought by the State to December 1, 2008.

CSXT is e-filing this notice Thank you for your assistance. If you have any questions please call or email me

Very truly yours,

A handwritten signature in black ink, appearing to read 'Steven C. Armbrust', with a stylized flourish at the end.

Steven C. Armbrust

cc Parties of Record

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<sup>2</sup> The last extension of the NITU negotiating period expired on April 5, 2008 From the date of the last extension and continuing to date, the State and CSXT were in discussions regarding the proposed trails and hoped to reach a final agreement in advance of the NITU deadline



**New York State Office of Parks,  
Recreation and Historic Preservation**

The Governor Nelson A. Rockefeller Empire State Plaza • Agency Building 1, Albany New York 12238

www.nysparks.com

**David A. Paterson**  
Governor

**Carol Ash**  
Commissioner

June 2, 2008

Via electronic mail

Honorable Anne K. Quinlan, Esq.  
Acting Secretary  
Surface Transportation Board  
395 East Street, SW  
Washington, DC 20423

Re: STB Docket No. AB-565 (Sub-No. 14X), New York Central Lines,  
LLC - Abandonment Exemption - in Montgomery and Schenectady  
Counties, NY

Dear Secretary Quinlan.

The New York State Office of Parks, Recreation and Historic Preservation (State) requested a notice of interim trail use/rail banking for approximately 6.3 miles of railroad between milepost QGW-159.6 and milepost QGW-165.9 between South Amsterdam in Montgomery County and Rotterdam Junction in Schenectady County, New York, in the above-captioned proceeding. The current extension of the negotiating period expired on April 5, 2008.

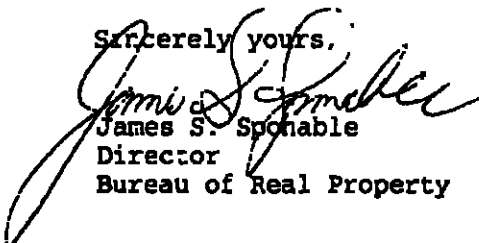
After lengthy discussions between the State and CSX Transportation, Inc. (CSXT), and their respective lawyers, consultants, the parties expect to conclude negotiations for a trail use agreement soon, but will not be able to do so in advance of the consummation deadline (June 5, 2008).

Accordingly, the State respectfully requests that the Board grant an extension of the consummation deadline (and NITF negotiating period) so that it may complete its negotiations with CSXT. CSXT has acknowledged its consent to this extension request and has informed the State that it will file a letter with the Board regarding this matter and its consent.

In addition, the State respectfully requests a waiver of the Board's filing fees in accordance with 49 CFR 1002.2(e)(1).

The State is efileing this letter. Thank you for your assistance.

Sincerely yours,



James S. Spohnable  
Director  
Bureau of Real Property

cc: Parties of Record